



# United States Department of the Interior



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May 31, 2018

In Reply Refer To:  
**4720/4710.4 (NVL01000)**

**DECISION RECORD (DR)  
for  
SEAMAN and WHITE RIVER  
HERD AREA  
WILD HORSE GATHER  
Bristlecone and Caliente Field Offices, and Basin and Range National Monument  
DOI-BLM-NV-L000-2017-0006-EA**

## INTRODUCTION

The Bureau of Land Management (BLM) Bristlecone and Caliente Field Offices, and Basin and Range National Monument, Ely District has determined that excess wild horses are present within and outside the boundaries of the Seaman and White River Herd Areas (HAs) and that removal of excess wild horses is necessary to achieve a thriving natural ecological balance and to manage the HAs in accordance with the land-use plan. The Seaman and White River HAs are 80 miles southwest of Ely, Nevada. The HAs encompass approximately 475,100 acres located in Lincoln and Nye Counties. Under the 2008 Ely District RMP, no wild horses are to be managed within the Seaman and White River HAs. The Seaman HA has an estimated population of 42 wild horses (not including the 2018 foal crop). The White River HA has an estimated population of 323 wild horses (not including the 2018 foal crop). After the 2018 foaling season, the estimated population is expected to reach approximately 49 wild horses in the Seaman HA and 388 in the White River. These population estimates are based on application of a 20% annual population growth rate to the population inventory that was conducted for the entire area in February 2016. Beyond 2018, the population remaining in the HAs will continue to increase by 20% a year until all of the horses can be removed.

BLM has prepared an environmental assessment (EA) to analyze the environmental impacts associated with the proposed gather and removal. Refer to **DOI-BLM-NV-L000-2017-0006-EA**, describing potential environmental impacts associated with wild horse management proposal to implement a 10-year wild horse gather plan for the Seaman and White River HAs. The Environmental Assessment is consistent with BLM's management responsibilities under the Wild Free-Roaming Horses and Burros Act of 1971, as amended (Public Law 92-195).

The Proposed Action (Alternative A) would gather and remove all existing horses within and that have moved outside the HAs.

**Alternative A.** The Proposed Action is designed to gather and remove excess wild horses over a 10 year time frame and would incorporate follow up gathers until management objectives are met for managing "0" wild horses within the HAs. The first portion of the Proposed Action would be to

gather as close to 100 percent of the current wild horse population (or approximately 365 excess wild horses) as feasible. All excess wild horses residing outside the HA boundaries will be removed. However, the initial gather might not obtain a 100% removal of excess wild horses due to terrain and limited gather efficiencies. Follow up gathers would be needed to remove all excess wild horses within these HAs and effectively return them to HA status. All the animals gathered would be removed and shipped to BLM holding facilities where they would be prepared for final disposition, including adoption and/or sale to qualified individuals or long term holding.

## **DECISION**

It is my decision to implement the Proposed Action (Alternative A) as described in the Final Environmental Assessment for the Seaman and White River HAs (**DOI-BLM-NV-L000-2017-0006-EA**). This decision is effective immediately pursuant to 43 CFR 4770.3(c).

## **RATIONALE**

Upon analyzing the impacts of the Proposed Action (Alternative A) following issuance of the EA for public review, I have determined that implementing the Proposed Action (Alternative A) will not have a significant impact to the human environment and that an environmental impact statement is not required as set forth in the attached Finding of No Significant Impact.

The gather is necessary to remove excess wild horses and eliminate the wild horse population within the Seaman and White River HAs, in order to maintain a thriving natural ecological balance between wildlife, livestock, vegetation and the available water as required under Section 3(b)(2) of the 1971 Wild Free-Roaming Horses and Burros Act and Section 302(b) of the Federal Land Policy and Management Act of 1976. The HAs have been determined to be unsuitable for the long-term management of wild horses due to the lack of adequate habitat, and the Ely RMP directs that BLM manage these HAs for an AML of zero wild horses.

The BLM is required to manage the HAs consistent with the Ely RMP and to remove excess wild horses to protect rangeland resources from further deterioration or impacts associated with the current overpopulation of wild horses within the Seaman and White River HAs.

In accordance with the Wild Free-Roaming Horses and Burros Act of 1971, as amended (Public Law 92-195), the gather is necessary to reduce and mitigate public safety concerns caused by wild horses residing along major roadways within and outside HA boundaries, decrease nuisance animal complaints on private lands, and address management issues caused by wild horses that reside outside HA boundaries.

The Proposed Action is consistent with the wild horse management objectives identified in the Record of Decision (ROD) and Approved Ely District Resource Management Plan (August 2008). Gathering wild horses consistent with the Proposed Action will occur as necessary over a 10- year period following the initial gather operation to achieve an AML of zero wild horses.

Leaving excess wild horses on the range under the No Action Alternative would not comply with the Ely RMP, or with the 1971 WFRHBA or applicable regulations and Bureau policy, nor would it comply with the Mojave/Southern Great Basin Resource Advisory Council (RAC) Standards and Guidelines (February 12, 1997 Standards and Guidelines (February 12, 1997) for Rangeland Health and Healthy Wild Horse and Burro Populations. The No Action Alternative would allow continued deterioration of rangeland

resources, including vegetative, soil and riparian resources, with potentially irreversible loss of native vegetative communities. Wild horses would continue to relocate in increasing numbers to areas outside the Seaman and White River HAs boundaries (including private lands) due to the lack of suitable habitat and competition for limited water and forage, adversely impacting public land resources not designated for wild horse management. The No Action Alternative also increases the likelihood of emergency conditions arising that would require an emergency gather to prevent the suffering or death of individual animals due to insufficient forage or water.

## **PUBLIC INVOLVEMENT**

A preliminary environmental assessment was made available to interested individuals, agencies and groups for a 30 day public review and comment period that opened on Dec 20, 2017 and closed on January 22, 2018. Comments were received from 3600 individuals and one agency. Approximately 3450 of these comments were in a form letter format. Many of these comments contained overlapping issues/concerns which were consolidated into 60 distinct topics. A detailed summary of the comments received and BLM's responses and use of these comments in preparing the final environmental assessment is located in Appendix IV of the document.

The final Environmental Assessment / Gather Plan for Seaman and White River Herd Areas is available on the National NEPA Registrar web page at <https://go.usa.gov/xnUwF> or by contacting the Ely District Office.

## **AUTHORITY**

The authority for this Decision is contained in Section 1333(a) of the 1971 Free-Roaming Wild Horses and Burros Act, Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

### **§4700.0-6 Policy**

- (a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

### **§4710.1 Land use planning**

Management activities affecting wild horses and burros, including the establishment of herd management areas, shall be in accordance with approved land use plans prepared pursuant to part 1600 of this title.

### **§4710.4 Constraints on Management**

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

#### §4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately ...

#### §4740.1 Use of Motor Vehicles or Air-Craft

(a) Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses or burros for capture or destruction. All such use shall be conducted in a humane manner.

(b) Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

#### §4770.3 Administrative Remedies

(a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR part 4.

(c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving natural ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

### **APPROVAL**

The Seaman and White River Wild Horse Gather plan for the Bristlecone and Caliente Field Offices, and Basin and Range National Monument is approved to begin at any time after May 31, 2018, as soon as funding and national priorities permit. This decision is effective upon issuance in accordance with Title 43 of the Code of Federal Regulations (CFR) at 4770.3 (c) because removal of excess wild horses is necessary to protect animal health and prevent further deterioration of rangeland resources. This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4 (see attachment).

/s/ Mindy Seal

Mindy Seal

Bristlecone Field Manager

Bureau of Land Management, Ely District

/s/ Alicia Styles

Alicia Styles

Basin and Range National Monument Manager

Bureau of Land Management, Ely District

**Attachment**  
**SEAMAN and WHITE RIVER**  
**HERD AREA**  
**WILD HORSE GATHER**  
**Bristlecone and Caliente Field Offices, and Basin and Range National Monument**  
**DOI-BLM-NV-L000-2017-0006-EA**  
**Appeal Procedures**

**Appeal Procedures**

If you wish to appeal this decision, it may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4. Your appeal must be filed within thirty (30) days from receipt or issuance of this decision with the Bureau of Land Management at the following address:

Mindy Seal and Alicia Styles  
BLM Ely District Office  
702 N. Industrial Way  
Ely, NV 89301

The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board pursuant to regulations at 43 CFR 4.21, the petition for stay must accompany your notice of appeal.

A copy of your appeal and any petition for stay must also be sent to the appropriate office of the Solicitor at the same time the original documents are filed with the above office.

US Department of the Interior  
Office of the Regional Solicitor  
Pacific Southwest Region  
2800 Cottage Way, Room E-1712  
Sacramento, California 95825

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The BLM Ely District does not accept the electronic filing of appeals, therefore service must be by personal delivery, registered or certified mail (return receipt requested), or by delivery service (return receipt requested) as described at 43 CFR 4.401(c).